

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

GOLDEN BETHUNE-HILL, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF ELECTIONS,  
*et al.*,

Defendants,

v.

VIRGINIA HOUSE OF DELEGATES, *et al.*,

Intervenor-Defendants.

Civil Action No. 3:14-cv-00852-REP-  
AWA-BMK

**DECLARATION OF RYAN SPEAR**

I, Ryan Spear, swear under penalty of perjury that the following is true and correct.

1. I am a counsel with the law firm of Perkins Coie LLP in Seattle, Washington. I am one of the attorneys representing the Plaintiffs in this matter.

2. Before the first trial in this case, Plaintiffs noted and took the deposition of Christopher Michael Marston on May 18, 2015. On information and belief, Mr. Marston was retained by the Virginia House of Delegates Republican Caucus to assist in the redistricting process in 2010-2011.

3. Plaintiffs subsequently served Defendant-Intervenors (“Intervenors”) with their initial discovery designations, which included certain portions of Mr. Marston’s deposition transcript, on June 16, 2015.

4. On June 23, 2015, Intervenor served Plaintiffs with rebuttal designations of Mr. Marston's deposition transcript, a true and correct copy of excerpts of which is attached as **Exhibit A**. Intervenor's rebuttal designations are highlighted in blue.

5. Intervenor's rebuttal designations of Mr. Marston's deposition transcript included lines 47:16 to 48:15 of the transcript.

6. On June 26, 2015, Plaintiffs met and conferred with Intervenor. At that time, Plaintiffs raised their objections to Intervenor's rebuttal designations of Mr. Marston's deposition testimony and asked Intervenor to withdraw those designations. Intervenor refused. A true and correct copy of the parties' email communications is attached as **Exhibit B**.

7. Plaintiffs filed formal objections to Intervenor's rebuttal designations on June 26, 2015. *See* Dkt. 84.

8. On June 29, 2015, after Plaintiffs filed their formal objections, Intervenor agreed to withdraw their rebuttal designations of Mr. Marston's deposition transcript at lines 47:16 to 48:15, as shown in **Exhibit B**. The parties thereafter filed a stipulation reflecting the withdrawal of those rebuttal designations. *See* Dkt. 86.

9. On September 18, 2017, as the parties were preparing for the second trial in this case, Intervenor again served Plaintiffs with rebuttal designations of Mr. Marston's deposition transcript, a true and correct copy of excerpts of which is attached as **Exhibit C**. Intervenor's new rebuttal designations are highlighted in yellow.

10. It appears that Intervenor tried to serve their rebuttal designations of Mr. Marston's deposition testimony on September 14, 2017, which was the deadline for serving their rebuttal designations. *See* Dkt. 173 ¶ 10(b). But Plaintiffs understand that Intervenor inadvertently failed to transmit their rebuttal designations to the other parties on September 14.

Plaintiffs received Intervenor's rebuttal designations on September 18. Thus, Plaintiffs became aware of the disputed designations for the first time on September 18—four days after the deadline for Intervenor to serve their rebuttal designations.

11. Intervenor's new rebuttal designations include the same portions of Mr. Marston's deposition transcript that Intervenor agreed to withdraw before the first trial, i.e., lines 47:16 to 48:15. (Although Exhibit C suggests that *Plaintiffs* designated lines 47:16-17, that is incorrect; Plaintiffs did not designate those lines.)

12. Again, Plaintiffs met and conferred with Intervenor about the disputed portions of Mr. Marston's deposition transcript. Again, Intervenor refused to withdraw their rebuttal designations of those portions.

13. Intervenor have not explained why they are taking a different position with respect to the disputed portions of Mr. Marston's deposition transcript.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief and that this declaration was executed on the 25th day of September, 2017, in Seattle, Washington.

DATED: September 25, 2017

/s/ Ryan Spear  
RYAN SPEAR